

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

DAUDA KOHLHEIM,	)	No. ED102351
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	
STATE OF MISSOURI,	)	Honorable David Lee Vincent III
	)	
Respondent.	)	Filed: March 8, 2016

Dauda Kohlheim (“Movant”) appeals the judgment of the motion court denying his Rule 29.15 motion for post-conviction relief after an evidentiary hearing. In his three points on appeal, Movant argues the motion court clearly erred in denying his claim that trial counsel was ineffective by 1) failing to advise Movant he could receive a fifteen-year sentence; 2) failing to object during the State’s closing argument; and 3) failing to object to the trial court’s sentence.

AFFIRMED.

Division Two holds:

- 1) The record refutes Movant’s claim that trial counsel failed to advise Movant he could receive a fifteen-year sentence and failed to inform Movant of the strength of the State’s evidence. Accordingly, the motion court did not clearly err in denying Movant’s claim.
- 2) We find Movant fails to establish trial counsel was ineffective for failing to object to the State’s closing argument. The prosecutor’s arguments were proper retaliation in rebuttal. Movant also failed to establish he was prejudiced as a result. The motion court did not clearly err in denying Movant’s claim.
- 3) We find the trial court properly exercised its discretion in imposing Movant’s sentence and any objection by Movant would have lacked merit and been overruled. Because trial

counsel cannot be deemed ineffective for failing to make a non-meritorious objection, the motion court did not clearly err in denying Movant's claim.

Opinion by: Angela T. Quigless, J.

Philip M. Hess, P.J., Gary M. Gaertner, Jr., J., Concur

Attorney for Appellant: Timothy J. Forneris

Attorney for Respondent: Rachel S. Flaster

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